

## United States Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,031	11/09/2001	Alevtina Smirnova	200-1215 DP	6086
28391 7	7590 10/09/2002			
	H, GOTTMAN, HAC	EXAMINER		
ONE DAYTON CENTRE ONE SOUTH MAIN STREET, SUITE 500 DAYTON, OH 45402-2023			NOLAN, SANDRA M	
DATION, OF	1 45402-2025		ART UNIT	PAPER NUMBER
			1772	16
	٠		DATE MAILED: 10/09/2002	
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Please find below and/or attached an Office communication concerning this application or proceeding.

4) Claim(s) 1-27 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are rejected.  7) Claim(s) is/are objected to.  8) Claim(s) 1-27 are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.			AS			
## Examiner   Art Unit		Application No.	Applicant(s)			
Sandra M. Nolan  -The MAILING DATE of this communication appears on the cover sheet with the correspondence address -  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  If the period for reply specified above is less than thirty (30) days, a reply within the statutory millimum of thirty (30) days with the contrained desire of the communication of the period for reply specified above is less than thirty (30) days, a reply within the statutory millimum of thirty (30) days with the contrained desire of this communication.  If the period for reply specified above is less than thirty (30) days, a reply within the statutory millimum of thirty (30) days with the contrained desire of this communication.  If the period for reply specified above is less than the more more and the statutory millimum of thirty (30) days with the contrained desire of this communication.  If the period for reply is appelled above is less than the more more and the statutory millimum of thirty (30) days with the contrained desire of this communication.  If the period for reply is application is in condition for allowance except the formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  7) Claim(s) is/are objected to.  3) Chaim(s) is/are objected to.  3) Claim(s) is/are: allowed.  6)		09/683,031	SMIRNOVA ET AL.			
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Repty  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ½ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Estendinos of time may be available under the provisions of 37 CER 1.13(a). In no event, however, may a reply bis limely filed after \$2 X (b) MONTHS from the making date of 37 CER 1.13(a). In no event, however, may a reply bis limely filed after \$2 X (b) MONTHS from the making date of 37 CER 1.13(a). In no event, however, may a reply bis limely filed after \$2 X (b) MONTHS from the making date of the standary period wall apply and well exprise \$1 X (b) MONTHS from the making date of this communication of the provision of the provision of the provision of the provision of the communication of the provision of the communication of the provision of the communication of the	Office Action Summary	Examiner	Art Unit			
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Examensor to time many be available under the provisions of 3° CPR 1.35(a). In no event, however, may a reply be timely filled  1 the period for reply specified above is listed shart brity (30) days, a reply within the statutory minimum of thinly (30) days with be considered timely.  1 the period for reply specified above, the maximum of 3° CPR 1.35(a), in no event, however, may a reply be timely filled from the state of the period for reply is specified above, the maximum state of years of the period for reply is a specified of reply is a public dot for reply is a public of reply is a public of the period of	- ·	pears on the cover sheet with the c	orrespondence address			
1)  Responsive to communication(s) filed on  2a)  This action is FINAL. 2b)  This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s)	A SHORTENED STATUTORY PERIOD FOR REPL THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a rep - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statut - Any reply received by the Office later than three months after the mailin earned patent term adjustment. See 37 CFR 1.704(b).	136(a). In no event, however, may a reply be tingly within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from e, cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).			
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Art Unit: 1772

## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claims1-13, drawn to methods of forming an article, classified in class
     264, subclass (unknown).
  - II. Claims 14-15, drawn to (tubular0 articles, classified in class 428, subclass 35.7.
  - III. Claims 16-27, drawn to binders and methods of making same, classified in class 524, subclass (unknown).
- 2. The inventions are distinct, each from the other, for the following reasons:

Inventions III and II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a coating film and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the article can be made by baking a ceramic/metal material in a kiln.

Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because another binder could be used in the forming method. The subcombination has separate utility such as a coating film. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

- 3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.
- 4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group III, restriction for examination purposes as indicated is proper.

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- 5. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group III, restriction for examination purposes as indicated is proper.
- 6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
- 7. A telephone call was made to Mr. Damian Porcari on October 1, 2002 to request an oral election to the above restriction requirement, but did not result in an election being made.
- 8. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).
- 9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## Conclusion

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

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If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.

S. M. Nolan

Patent Examiner

Technology Center 1700

SMN/smn 09683031(4) October 4, 2002